

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2001-42

May 15, 2001

PUBLIC UTILITIES COMMISSION
Rulemaking to Create a Statewide
Low-Income Assistance Plan
(Chapter 314)

NOTICE OF FURTHER
RULEMAKING AND REQUEST
FOR COMMENTS

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

By Notice of Rulemaking dated February 6, 2001, we initiated a rulemaking to create a statewide assistance plan for low-income electricity customers in response to 35-A M.R.S.A. §3214. We held a hearing on the proposed rule on March 8, 2001. To address the concerns raised in the testimony presented at the March 8th hearing and subsequent written comments, we have amended the initial draft of our proposed rule. The purpose of this Notice is to distribute, discuss and request comments on our amended rule,¹ which is attached to this Notice.

II. DISCUSSION OF COMMENTS ON INITIAL PROPOSED RULE

The initial proposed rule contemplated a single and uniform statewide program, called the Electric Lifeline Program (ELP), that would have been implemented and administered by the Maine State Housing Authority (MSHA) in conjunction with Maine's Community Action Agencies. The proposed ELP would have been funded by contributions from Maine's transmission and distribution utilities;² and each of these utilities would have had to offer the ELP to its eligible customers beginning October 1, 2001. The proposed ELP was based on a percentage of income model and is similar to Central Maine Company's current low-income assistance program.

Under the proposed ELP, a participant's bill payment requirement to the utility would have been calculated based on the relationship between the participant's total household income and the participant's annual electricity bill.

¹ In this Notice, we use "amended rule" to refer to the draft rule attached to this Notice and "initial proposed rule" to refer to the draft rule that was attached to our February 6, 2001 Notice of Rulemaking.

² The ELP would have applied to Maine's three investor-owned electric utilities and seven of Maine's 10 consumer-owned electric utilities. Three of Maine's consumer-owned electric utilities, Matinicus Plantation Electrical Company, Monhegan Plantation Power District and Isle Au Haut Power Company, would have been exempted from the requirements of the initial proposed rule.

Benefits would have been paid to a participant only when the participant's annual household electric usage exceeded a predetermined percentage of total household income. The proposed ELP incorporated a two-tiered mechanism that would have set payment levels based on income. Under this mechanism, participants with income at or below 75% of federal poverty guidelines would have paid 6% of their income and those with income above 75% of federal poverty guidelines would have paid 11% of their income.

Another key component of the proposed ELP was the incorporation of a budget payment plan. The proposed ELP would have allowed eligible customers to have their pre-program arrears deferred during the term of their payment plan and required utilities to offer participants an option to obtain forgiveness of some or all of the customer's deferrable arrears balance. Under the proposed ELP, a customer who receives a benefit from the federally funded Low-Income Energy Assistance Program (LIHEAP) for electric service would have had the amount of the LIHEAP benefit subtracted from the total amount of the otherwise applicable fixed credit. Finally, the proposed ELP would have required all participants to accept at no cost demand-side management measures as a condition of program enrollment.

The Commission held a hearing on the initial proposed rule on March 8, 2001. Testifying were Eric Bryant, Office of the Public Advocate (OPA); Jim Connors, State Planning Office (SPO); Judy Frost, Western Maine Community Action; Dick Davies, Maine Community Action Association (MCAA); Bob Briggs, Bangor Hydro-Electric Company (BHE); Skip Dumais, Van Buren Light and Power; Scott Hallowell, Eastern Maine Electric Cooperative (EMEC); John Clark, Houlton Water Company (HWC); Geoff Green, Central Maine Power Company (CMP); and Rod Leach, Maine Public Service Company (MPS). Written comments were filed by the following people and organizations: Geoff Green, CMP; Steve Johnson, MPS; John Clark and Philip Curtis, HWC and Madison Electric Works (MEW); Cindy Boyd, Program Manager, General Assistance, Department of Human Services, Bureau of Family Independence; Dick Davies, MCAA; Scott Hallowell, EMEC and Joe Giard, BHE.

The OPA expressed concern about the ELP's two-tiered mechanism that sets payments based on income and suggested that a sliding scale may be preferable. In the amended rule, we have replaced the two-tiered mechanism with a requirement that a minimum of four benefit categories be made available to participants. The OPA supported the ELP's requirement that participants in the program accept, at no cost to them, DSM measures as a condition of participation. In the amended rule, we have preserved the DSM requirement.

The SPO expressed concern that the provisions in the initial proposed rule's regarding the ELP's relationship to energy management services were unclear or perhaps too constraining. The SPO offered no alternative language at the hearing, but indicated it would give the matter further thought and try to

submit specific comments and suggested alternative language. The DSM language in the amended rule (section 4(G)) closely tracks the corresponding language in the initial proposed rule (section 3(P)). We urge the SPO, and all others, to carefully review section 4(G) of the amended rule and, if appropriate, suggest modifications.

During the hearing, Chairman Welch distinguished between DSM programs that involve some physical change in the structure, such as the installation of insulation, and DSM programs that require recipient training. We invite comment on whether the rule should recognize this distinction.

The MCAA supported the pre-program arrears forgiveness provisions of the ELP. This was one of the more controversial provisions of our initial proposed rule. In response to the many comments we received, we have eliminated the arrears forgiveness from the amended rule, primarily because of a lack of information regarding the cost to utilities, and ultimately to ratepayers. There is also a concern that some participants may use the arrears forgiveness program to "game the system" by allowing an arrearage to accumulate and then paying it off at a reduced rate (with other ratepayers making up the difference).

The MCAA supported the provisions in the ELP that required program participants to accept energy management programs offered at no cost to them as a condition of participation, which, as noted above, has been preserved. The MCAA proposed that the two-tiered percentage of income approach in the ELP be replaced with a three-tiered approach. As discussed above, the amended rule requires that benefits be structured to include at least four tiers. The MCAA emphatically objected to the inclusion of a \$600 maximum credit amount in the proposed ELP. We have eliminated the benefit cap in the amended rule. The MCAA also objected to the requirement in the proposed ELP that the participant's LIHEAP benefit for electric service be subtracted from the otherwise available credit and this requirement has also been eliminated.

The MCAA urged the Commission to consider an alternative approach for the three small consumer-owned utilities that were exempted under the proposed ELP. The MCAA suggested that these utilities

could donate an amount equal to 120% of their projected ELP obligation to the Community Action Agency (or Agencies) which provide the LIHEAP program in the utility's service area. In return the Community Action Agency (or Agencies) would agree to utilize these donated funds by providing bill-payer assistance to LIHEAP recipients whose T&D electric service is provided by that utility. This would allow greater amounts of assistance to be provided to eligible customers of these very small T&D utilities at a lesser cost to the utilities and with fewer administrative expenses. We see this as a win-win situation for both these utilities and their low-income customers. We understand from conversations with

representatives of some of these very small T&D utilities that they would be interested in this proposal.

While the amended rule still includes an exemption for Maine's three smallest electric utilities, we find the MCAA's suggestion interesting and invite comment on it.

The MCAA also objected to the provision in the proposed ELP that would require the utility to adjust a participant's monthly credit if the participant moves to a new location. This requirement has been eliminated. The MCAA noted that the initial proposed rule would give the MSHA the discretion to contract with either Community Action Agencies or other entities, such as municipalities, to administer the ELP locally. The MCAA recommended that when the local CAP is unable or unwilling to administer the program locally, CAPs from adjacent areas should be the first alternative available to the MSHA. "Only in the event that no other community action agency is willing and able to assume administration of the ELP program in place of the local community action agency should MSHA be authorized to contract with other agencies to administer the ELP locally or to perform the administrative functions itself." We are not inclined at this time to limit the MSHA's flexibility regarding the local administration of the statewide low-income plan. Consequently, the amended rule does not include the limitation proposed by the MCAA.

In commenting on customer notice requirements, the MCAA recommended that a bill insert be sent with the first bill to a new customer. "Without such a provision, an eligible customer who opens an account the month after the annual bill insert is sent will go up to a year without receiving this written notice and information." We agree with the MCAA and have incorporated a requirement in section 7(B)(3) of the amended rule that utilities provide oral notice to customers of the existence of their Low Income Assistance Program (LIAP) when customers contact the utility to sign-up for service and when they contact the utility with payment troubles.

Finally, the MCAA recommended that the rule should explicitly exclude persons residing in subsidized housing from the program because their utility costs are included in their rent and their rent is limited to a fixed percentage of their income. We agree and have incorporated such a requirement in section 4(A)(2) of the amended rule.

The Western Maine Community Action Agency expressed concern about the transition provisions in the initial proposed rule regarding the three existing low-income programs. Under the amended rule, the three existing low-income programs will continue on an uninterrupted basis. This should minimize problems associated with the transition to our statewide low-income assistance plan.

BHE opposed the proposed ELP because it would be too costly and too complicated to develop, implement, and administer. BHE asserted that 35-A M.R.S.A. §3214 does not require a single, uniform statewide program and urged the Commission to allow utilities to continue offering their existing low-income assistance programs. BHE states that its tariff discount program has many advantages over the proposed ELP and that it would be unable to implement the proposed ELP by October 1, 2001. BHE strongly opposed the arrears forgiveness provisions of the proposed ELP and objected to the requirement that utilities transfer their entire funding obligation to the MSHA at the beginning of the program year. BHE also expressed concern over the absence of a cost recovery mechanism. Finally, in its written comments, BHE offered specific comments regarding the following sections of the initial proposed rule: §3(F), estimated cost of service; §3(G), co-payment; §3(I), minimum credit amount; §3(M)(5), adjustment to monthly credit, separation; §3(P), relationship to energy management services; §6(D), administrative responsibilities; and §6(E), collection procedures for ELP participants.

We have carefully weighed the concerns raised by BHE and all other commenters. One of our primary objectives in this rulemaking is to have a statewide low-income assistance plan in place by October 1, 2001. We agree with BHE that it would be difficult to implement the proposed ELP by October 1st and also agree that §3214 does not require a single, uniform statewide low-income assistance program. While we still believe that a percentage of income program has many advantages, we acknowledge that implementing such a program on a statewide basis would be very difficult. The amended rule therefore allows utilities with existing low-income programs to continue those programs and allows consumer-owned utilities to develop their own LIAPs.

The amended rule includes several basic design features that all LIAPs must incorporate. We expect that each of the new LIAPs will be modeled after one existing low-income programs, although the amended rule does not require this. The amended rule requires that each of the new LIAPs be developed and implemented by October 1, 2001. As noted above, October 1st implementation is extremely important and we urge each utility to begin taking steps immediately to comply with the implementation schedule in the amended rule. The changes reflected in the amended rule have addressed most of BHE's concerns about the initial proposed rule.

Van Buren Light and Power expressed concern about the various costs associated with the proposed PIP. We believe we have addressed many of these concerns by permitting utilities to design their own LIAPs within the parameters set forth in the amended rule. Mr. The utility also expressed strong opposition to the arrears forgiveness provisions of the proposed ELP. As noted above, we have eliminated the arrears forgiveness component in the amended rule.

EMEC expressed concerns about how it would recover its costs associated with the proposed ELP and requested that it be allowed to recover them through a special tariff. At a meeting with the Consumer-Owned Utilities, Commission staff recommended that each utility examine its recovery options with Commission staff and determine a method of recovery that is most efficient for the utility and the Commission. EMEC also expressed concern about the arrears deferral and forgiveness provisions of the proposed ELP. Those provisions have been eliminated in the amended rule. EMEC contended that it is not necessary for the T&D utilities to remit all of the program funds at the outset of the program year. EMEC proposed an alternative mechanism that would require the T&D utilities to provide a minimal amount of funding at the start of the program year and require the T&D utilities and MSHA to exchange net funds on a quarterly basis. We believe that §5(E) of the amended rule addresses EMEC's cash flow concerns. EMEC expressed concern with definition of "amount overdue," which has been deleted in the amended rule. EMEC recommended that some of the T&D utilities' reporting responsibilities be shifted to the MSHA. In the amended rule, reporting requirements were re-examined, and information requirements that only the utilities can satisfy were retained. Finally, EMEC objected to the requirement that all T&D utilities put ELP participants put on a levelized payment plan and then monitor the account. This requirement has been eliminated.

HWC expressed concern about the administrative costs the proposed ELP would impose on the HWC. The utility opposed the requirements in the proposed ELP regarding arrears forgiveness and up-front funding of the program and expressed doubt that the proposed ELP could be implemented by October 1, 2001. In jointly filed comments, HWC and MEW reiterated the points made at the hearing and further asserted that the proposed ELP would promote rather than reduce energy consumption, that certain provisions of the ELP are unworkable and/or cumbersome and that funding for the program should be capped. We addressed the comments of the HWC and MEW in the amended rule.

CMP urged the Commission to reject the initial proposed rule and adopt a fundamentally different approach. CMP noted that the proposed ELP is substantially different from CMP's current low-income program that is also based on a percentage of income model and that the differences substantially increase the cost of the program without providing corresponding benefits to the program participants. CMP opposed the proposed rule's requirements regarding estimated cost of service (section 3(F)); levelized payment plans (section 3(L)); adjustment to the monthly benefit (section 3(M)); arrears forgiveness (sections 3(N) and 6(D); the continuing applicability of Chapter 81 regarding payment plans (section 3(R)); program funding levels (section 4(A)); the up-front funding transfer mechanism (section 4(C)); customer notice requirements (section 6(D)); and collection procedures (section 6(E)). In supplemental written comments, CMP indicated that it would have difficulty implementing some of the requirements of the initial proposed rule by October 1, 2001.

As noted above, the amended rule would allow CMP to maintain its current low-income program. Thus, we have addressed each of the concerns raised by CMP. CMP did state that it would support the creation of a pilot program in which some plan dollars would be directed to CAPs to create an arrears forgiveness pilot. We seek comment on this suggestion and urge CMP to consider such a pilot program for its LIAP.

MPS indicated that a single, uniform statewide program is not mandated by §3214 and expressed the strong desire to keep its existing low-income program. MPS noted several concerns about the arrears forgiveness provisions of the initial proposed rule. MPS also offered comments regarding the following sections of the initial proposed rule: estimated cost of service (section 3(F)); maximum credit amount (section 3(J)); adjustment to monthly credit (section 3(M)); portability of benefits (section 3(O)); the continuing applicability of Chapter 81 regarding payment plans (section 3(R)); the transfer and distribution of program funds (section 4(C) and (D)); the transition from current programs (section 6(A)); the development of the electronic transfer of information (section 6(C)); and reporting (section 6(G)). The amended rule would allow MPS to maintain its existing low-income program and the changes reflected in the amended rule address MPS's comments.

Cindy Boyd, Program Manager for General Assistance recommended that the initial proposed rule be modified to include the three island consumer-owned transmission and distribution utilities within the statewide program. The amended rule continues to exempt the three island utilities from the Statewide Low-Income Assistance Plan because these utilities are exempted from the restructuring law (Chapter 32 of Title 38-A) pursuant to 38-A M.R.S.A. §3202(6). However, we do seek comment on this issue in the next section of this Notice.

Ms Boyd also recommended that section 3(F) of the initial proposed rule be amended to reflect the method CMP uses in its current program to estimate the cost of electric service. Ms. Boyd supported the \$600 cap on program benefits (section 3(F)); questions why participants with electric heat should have their ELP benefits reduced pursuant to section 3(K); proposed a semi-annual review under section 3(M); supported the concept of arrears deferral, but preferred a 1-to-1 forgiveness of arrears (section 3(N)); and recommended a procedure for customers to pay back overpayments under the program (section 6(D)(3)). As discussed above, the amended rule allows each transmission and distribution utility to develop its own LIAP. Thus, each utility has the discretion to adopt or reject each of the recommendations contained in Ms. Boyd's comments.

Finally, Ms. Boyd indicated that the Department of Human Services serves the same customers who are likely to be eligible for the proposed ELP and may be able to assist in providing notice of the proposed ELP. We seek comments on this offer and encourage the MSHA and the CAPs to pursue it with DHS.

The amended rule that is discussed below and attached to this Notice has been prepared in response to the many useful oral and written comments we received regarding our initial proposed rule. Because the amended rule is substantially different from our initial proposed rule, we are requesting additional public comment pursuant to 5 M.R.S.A. §8052(5)(B).

III. DISCUSSION OF THE AMENDED RULE

A. General Provisions and Definitions (section 1 of the amended rule)

The scope of the amended rule is unchanged from the initial proposed rule. Section 1(A) provides that the rule will apply to all transmission and distribution utilities in the State with the exception of the three “island” utilities that are exempted from restructuring pursuant to §3202(6).³ We seek comment on whether a “statewide” plan is compatible with such exemption. Should low-income customers of these island utilities be allowed to qualify for program benefits even though the utilities’ other customers are not contributing to the program fund?

The definitions for the amended rule are set forth in section 1(B). Many mirror definitions contained in the initial proposed rule. In this section we define “Statewide Low-Income Assistance Plan” and the “Low-Income Assistance Programs (LIAP)” that are the central component of the statewide plan. The existing low-income programs of Central Maine Power Company (CMP), Bangor Hydro-Electric Company (BHE) and Maine Public Service Company (MPS) qualify as LIAPs. New definitions also include “apportionment,” “apportionment rate” and “assessment” that relate to the funding of the statewide plan.

B. Purpose of the Statewide Plan and the LIAPs (section 2 of the Amended rule)

The purpose of the Statewide Low-Income Assistance Plan and the LIAPs is to establish a series of bill payment assistance programs for low-income residential customers that will (1) make participants electric bills more affordable; (2) make assistance available to low-income customers throughout the State; and (3) ensure that each of Maine’s transmission and distribution utilities has the funds necessary to implement a LIAP that addresses the need that exists in that particular utility’s service territory.

Title 38-A Section 3214(1) states that “it is the policy of the State to ensure adequate provision of financial assistance” to “electricity consumers who are unable to pay their electricity bills in full and who satisfy eligibility criteria for assistance....” Section 3214(2) directs that the low-income program “continue

³ These three systems are Matinicus Plantation Electrical Company, Monhegan Plantation Power District and Isle Au Haut Power Company.

existing levels of financial assistance for low-income households and ... meet future increases in need caused by economic exigencies....” We believe the amended rule meets this statutory directive.

C. Creation and Implementation of the Statewide Plan and Individual LIAPs (section 3 of the amended rule)

Section 3(A) of the amended rule requires each of Maine’s transmission and distribution utilities to develop and implement a LIAP by October 1, 2001. CMP, BHE and MPS are required to modify their existing low-income programs to bring their programs into compliance with the amended rule by August 1, 2001.

Section 3(B) of the amended rule provides that the Commission will review and approve each LIAP and requires each transmission and distribution utility without an existing low-income program to submit a proposed LIAP for Commission review on or before August 1, 2001.

D. Required Design Features of a LIAP (section 4 of the amended rule)

Section 4(A) provides that each utility’s LIAP will be available to all of the utility’s residential electric customers who (1) qualify for LIHEAP and (2) do not receive certain types of housing subsidies.

Section 4(B) provides that the LIAPs will be administered by the MSHA, in cooperation with the Community Action Agencies and any other entity chosen by the MSHA.

Section 4(C) directs that data, such as certification and enrollment information, should be transferred electronically between the utility and the agency responsible for certification and benefit calculation.

Section 4(D) requires that LIAP benefits be designed so that participants with the greatest needs receive the highest benefits. For instance, participants with incomes at or below 75% of the applicable federal poverty guidelines must receive a higher benefit than participants with incomes between 76% and 100% of the federal poverty guidelines. Similarly, participants with incomes between 101% and 125% of the applicable federal poverty guidelines must receive a higher benefit than participants with incomes over 125% of the federal poverty guidelines. This section further requires that each LIAP which does not employ a percentage of income benefit structure must have a minimum of four separate benefit categories that are based on the federal poverty guidelines. Finally, this section requires that each LIAP include a provision that tracks changes in the federal LIHEAP program which may affect a customer’s eligibility for the LIAP, such as an increase in the LIHEAP eligibility requirement.

Section 4(E) requires that the LIAP enrollment process be designed so that each participant receives her or his first benefit on the bill immediately following the utility's receipt of the participant's certification. This section further provides that if enrollment is delayed, enrollment shall be retroactive to the first bill issued after certification.

Section 4(F) provides that the Statewide Low-Income Plan will be funded by an assessment on the State's transmission and distribution utilities.

Section 4(G) requires participants to accept energy management programs offered at no cost to the participant by or through the applicable transmission and distribution utility, the MSHA, or other federal or state agency. The energy management programs available to participants under the LIAPs should be coordinated with the design and implementation of the state energy conservation program planning that is currently being coordinated by the State Planning Office.

Section 4(H) of the amended rule tracks the statutory directive in §3214(2)(B) which provides that the ELP funding formula "may not result in assistance being counted as income or as a resource in other means-tested assistance programs for low-income households. To the extent possible, assistance must be provided in a manner most likely to prevent the loss of other federal assistance."

Section 4(I) clarifies that the provisions of Chapter 81 of the Commission rules shall continue to apply unless specifically varied by the amended rule or by terms and conditions approved by the Commission.

Section 4(J) establishes that the amended rule creates a pool of eligible applicants, but does not confer any right or entitlement on any person or eligible entity.

E. Statewide Low-Income Plan Funding (section 5 of the amended rule)

It is important to keep the following definitions in mind when reading the funding section of the amended rule. Each of these definitions appears in section 1(B). "Apportionment" is the amount of money that a transmission and distribution utility must spend annually on its LIAP. "Apportionment rate" is the percentage of the Statewide Low-Income Assistance Plan Fund to which a transmission and distribution utility is entitled. "Assessment" is the amount of revenue each transmission and distribution utility must annually contribute to the Statewide Low-Income Assistance Plan.

Section 5(A) of the amended rule establishes the Statewide Low-Income Assistance Plan Fund. The purposes of the fund are to pay LIAP benefits and cover the MSHA's administrative costs. The fund will be generated and maintained by contributions from the State's transmission and distribution utilities. The fund will have separate dedicated accounts for LIAP benefits and administrative expenses.

Section 5(B) establishes levels for LIAP benefits and administrative costs for the LIAP program year beginning October 1, 2001. This section sets the total annual statewide spending on Statewide Low-Income Assistance Plan benefits at \$5,823, 120 and total annual administrative costs at \$239,720. To establish the total annual spending amount for benefits, we combined the current benefit funding amounts included in rates by Central Maine Power Company, Bangor Hydro-Electric Company, and Maine Public Service Company. We then took this figure and divided it by the number for people eligible for LIHEAP in those service territories to establish a funding amount "per LIHEAP eligible person" in those utilities' service territories. We then multiplied this figure by the total number of LIHEAP eligible persons in the State to establish the total funding amount for benefits for the Statewide Low-Income Assistance Plan.⁴ The total annual spending amount for administrative costs, including both the utilities' costs as well as the MSHA's costs, was calculated in the same manner as the total benefit cost. Each utility's assessment was established by multiplying that utility's percentage of residential customers served in the State by \$5,823,210.

Section 5(B) establishes \$239,720 as the utilities' total "external" administrative costs of operating the LIAPs that will be forwarded by the utilities to the MSHA. This amount is based on an average "70 to 30" split for external versus internal administrative costs, as reported by Central Maine Power, Bangor Hydro-Electric, and Maine Public Service to the Commission for the operation of their existing LIAPs, and represents 70% of their total administrative costs. The total amount owed to the MSHA will be forwarded to the MSHA by October 7 for each program year, beginning with 2001. Section 5(B) also allows the Commission to adjust utilities' contributions to the MSHA to ensure that the MSHA has the necessary funds to administer the Statewide Low-Income Assistance Plan. We seek comment on this section of the rule. Will the \$239,720

⁴ The amount currently included in rates for Bangor Hydro-Electric Company was increased from .44% of total transmission and distribution revenues to .5% of its year 2000 total transmission and distribution revenues in this calculation. Bangor Hydro-Electric Company's assessment rate should have been increased in its rate design case (97-596) to account for the loss of electric supply revenues. We discovered while doing research for this rule that this did not occur and that Bangor Hydro-Electric is currently contributing only .44% of its transmission and distribution revenues towards its Low Income Assistance Program. We have increased Bangor Hydro-Electric's assessment in this proceeding to the amount of .5% of its transmission and distribution revenues. This is at the amount that it was required to contribute to its Low Income Assistance Program prior to divestiture. This amount is still significantly less than the contributions being made by Central Maine Power Company and Maine Public Service. This inequity should be addressed in a later proceeding that examines Bangor Hydro-Electric Company's rates.

be enough to cover the administrative costs of the Statewide Low-Income Assistance Plan? In the event that it is not enough for the first program year, will a required second contribution by utilities to the MSHA during the program year cause undue hardship to the utilities? If yes, what other options are available to ensure that the MSHA has the funds it requires to administer the Statewide Low-Income Assistance Program?

Section 5(B) further provides that the annual assessment, apportionment, and administrative figures will stay in effect until modified by the Commission. This section references Appendix A to the amended rule for a breakdown of assessment and apportionments amounts by company. Appendix A is divided into two parts. The first part of Appendix A, which relates to LIAP benefits, indicates the percentage of LIHEAP clients, the assessment, the apportionment, and the difference between apportionment and assessment for each of the applicable transmission and distribution utilities. The second part of Appendix A relates to administrative costs and lists each utility's internal, external and total administrative costs.

Section 5(B) also authorizes the Commission to make adjustments in the utilities' contribution for administrative costs to ensure that the MSHA has sufficient funds to fully administer the LIAPs.

Section 5(C) provides that the Commission will monitor the needs of Maine's low-income electric customers and will evaluate annual LIAP funding and expenditure levels and program design features. Section 5(C) further provides that the Commission will make necessary adjustments to apportionment and assessment level[s] by May 1st of the applicable year.

Section 5(D) establishes the mechanism by which each utility's apportionment will be set and authorizes a utility to petition the Commission by May 1 for the following program year to modify its apportionment rate. The apportionments for each utility are listed in Appendix A to the amended rule.

Section 5(E) summarizes how monies will be transferred into and out of the Statewide Low-Income Fund. Each utility that collects more than its apportionment must transfer the difference to the MSHA by September 30th of each year. Each utility whose assessment is less than its apportionment is entitled to receive funds from the MSHA. Under such circumstances, a utility is eligible to receive reimbursement for the amount its actual benefit expenditures exceed its assessment level, up to, but not exceeding, its apportionment. Each utility whose LIAP expenditures are less than its apportionment must contribute the difference to the MSHA prior to the beginning of the next program year. However, a utility is not eligible for reimbursement for any LIAP expenditures that exceed its apportionment.

F. Statewide Low-Income Assistance Plan and LIAP Administration:
Role of the MSHA (section 6 of the amended rule)

As with the initial proposed rule, the amended rule provides that the MSHA will administer, implement and coordinate the statewide plan and the individual LIAPs in conjunction with the MSHA's delivery of LIHEAP in Maine. Section 6(A) of directs the MSHA to monitor and track contributions and reimbursements to the LIAP fund, assessment and apportionment amounts, and benefits and administrative costs for each individual LIAP and for the whole statewide plan.

Section 6(B) provides that the MSHA will be reimbursed for the administrative costs it incurs relating to the statewide plan and individual LIAPs up to \$239,720 or other amount specified by the Commission.

Section 6(C) directs the MSHA to file annual reports that include the number of participants, reimbursement to utilities, funds received from utilities, benefits paid, specified information about the fund and any other information either the MSHA or the Commission determines to be desirable.

Section 6(D) directs the MSHA to maintain records on the number of customers evaluated and the income and usage of participants.

Section 6(E) directs the MSHA to contract with CAPs or other entities to administer the LIAPs. This section also authorizes the MSHA to establish various procedures and requirements to help ensure that the administration of the LIAPs is done in a manner that is cost effective and coordinated with the implementation of LIHEAP.

G. Obligations of Transmission and Distribution Utilities (section 7 of
the amended rule)

Section 7(A) of the amended rule requires CMP, BHE and MPS to continue to provide benefits to participants in their existing low-income programs. This section further provides that amendments made to those programs pursuant to the amended rule will apply to participants enrolled after September 30, 2002.

Section 7(B) requires CMP, BHE and MPS to provide notice to participants in their existing low-income programs of any modifications to those programs. Section 7(B) requires all utilities that are implementing a new LIAP to provide notice of the provisions of the LIAP to all of their residential customers. In addition, section 7(B) requires each transmission and distribution utility to inform its residential customers of its LIAP in a bill insert issued annually beginning in the fall of 2001. This annual notice must include LIAP eligibility criteria and how to apply for the LIAP. This section also enumerates additional written notice requirements and directs each transmission and distribution utility to provide oral

notice of its LIAP and its LIAP application process to any residential customer who contacts the utility and expresses difficulty in paying her or his electric bill.

Section 7(C) provides that the amended rule supersedes any conflicting tariff provision and directs each transmission and distribution utility to file any tariff modifications necessary to comply with this rule.

Section 7(D) directs each transmission and distribution utility to furnish specified customer information to the MSHA and the CAPs upon request. This section further provides that the information shall be transmitted electronically unless there is agreement some other method of data transmission. We note our intent that the statewide plan and the LIAPs be implemented as efficiently as possible and that administrative costs be kept as low as reasonably possible. Toward this end, we recommend that the MSHA, the CAPs and the transmission and distribution utilities work together to identify cost-effective ways to transfer information electronically and to employ available protocols that will minimize administrative costs associated with the statewide plan and the LIAPs.

Section 7(E) directs each transmission and distribution utility to coordinate its funding and delivery of energy management programs with the implementation of its LIAP.

Section 7(F) requires each transmission and distribution utility to provide quarterly and annual reports to the Commission and the MSHA and identifies seven categories of information to be included in the reports. We seek input on whether the enumerated categories will provide a sufficient basis of information for the Commission's and the MSHA's ongoing program monitoring activities. This section of the amended rule also requires each transmission and distribution utility to report annually on four categories of information to the MSHA. Again, we invite comment on the sufficiency of the categories of information enumerated in the amended rule.

H. Waiver (section 8 of the amended rule)

Like the initial proposed rule, the amended rule contains a waiver provision that allows the Commission to waive certain requirements of the rule upon the request of any person subject to the rule or upon the Commission's own motion.

IV. RULEMAKING PROCEDURES

Written comments on the amended rule may be filed on or before June 22, 2001. Written comments should refer to the docket number of this proceeding, Docket No. 2001-42, and be sent to the Administrative Director, Public Utilities Commission, 242 State Street, 18 State House Station, Augusta, Maine 04333-0018.

V. FISCAL AND ECONOMIC IMPACT

5 M.R.S.A. §8057-A(1) requires the Commission to estimate the fiscal impact the amended rule. A summary of our projected funding obligations for each transmission and distribution utility that is required by the amended rule is set forth in Appendix at page 18 of the amended rule. The Commission invites all interested persons to comment on the fiscal impact, economic effects and all other implications of the amended rule.

VI. SERVICE

The Administrative Director shall send copies of this Order and the attached amended rule to:

1. All transmission and distribution utilities in the State;
2. All persons who have filed with the Commission within the past year a written request for notice of rulemakings;
4. All persons on the low-income rule workgroup stakeholder list;
5. All licensed competitive electricity providers in the State;
6. The Secretary of State for publication in accordance with 5 M.R.S.A. §8053(5); and
7. The Executive Director of the Legislative Council; 115 State House Station, Augusta, Maine 04333-0115 (20 copies).

Accordingly, we

O R D E R

That the Administrative Director send copies of this Notice of Amended Rule and Request for Comments and attached amended rule to all persons listed above and compile a service list of all such persons and any persons submitting written comments on the proposed rule.

Dated at Augusta, Maine, this 15th day of May, 2001.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond